

RESOLUTION NO. 2007- 3

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF NEWPORT BEACH ADOPTING AN
INTERIM DEVELOPMENT REVIEW PROCESS
DURING THE COMPREHENSIVE REVISION OF
THE ZONING CODE (PA2006-277)**

WHEREAS, the Newport Beach City Council adopted Resolution No. 2006-76 on July 25, 2006, approving a comprehensive update to the Newport Beach General Plan; and

WHEREAS, pursuant to Charter Section 423 and the Measure S Guidelines, the comprehensive General Plan Update was placed on the ballot and approved by the electorate at the General Election of November 7, 2007; and

WHEREAS, the updated General Plan ("General Plan") contains land use regulations inconsistent with those in the existing Zoning Code (Newport Beach Municipal Code Title 20); and

WHEREAS, Section 10 of Resolution No. 2006-76 directs the Planning Department to begin the preparation of revised zoning and other ordinances necessary to implement the new General Plan, accepting that applications will be made before the implementing ordinances are in place; and

WHEREAS, Section 11 of Resolution No. 2006-76 declares the General Plan the officially adopted policy for the growth, land use, development and protection of Newport Beach such that if it is in conflict with any other City ordinance or action the General Plan shall take precedence; and

WHEREAS, the City Council desires to provide a method and procedures for the earliest possible implementation of the General Plan during the interim period while the Zoning Code and other ordinances and regulations are being updated for consistency with the General Plan;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newport Beach as follows:

Section 1. Primacy of General Plan. Except as otherwise provided in this Resolution, no land use, or density or intensity, of use may be permitted if it is not authorized by the General Plan, regardless of any Zoning Code provision permitting such use, density or intensity. However, projects that received City discretionary approval consistent with the General Plan and Zoning code prior to November 7, 2006, shall be permitted in accordance with prior approval.

Chapter 20.62, Non-Conforming Structures and Uses, of the Zoning Code remains applicable.

Section 2. Implementation of General Plan Policies. All new uses and developments shall comply with applicable policies of the General Plan, to the extent that such policies make specific requirements for new development rather than directing further study or future consideration of new regulations. Single-unit and two-unit development with complete applications for plan check prior to April 1, 2007 shall be exempt from this Section. Single and two-unit development must also have secured any required tract map approval prior to April 1, 2007 to qualify for this exemption.

Section 3. Interim Development Review Requirements and Procedures.

A. Interim Study Overlay District

1. **Purpose.** To provide a mechanism and procedures for the City to consider developments and uses allowed by and consistent with the General Plan but inconsistent with the current Zoning Code, during the interim period during which the City revises the Zoning Code to implement the General Plan.
2. **When Required.** A Zoning Code amendment that applies the Interim Study (IS) Overlay District, pursuant to Chapter 20.53 of the Zoning Code, to a specific property or properties is required for any development or use that is consistent with the General Plan, but does not comply with the Zoning Code. This requirement shall not apply to existing or new Planned Community Districts.

B. IS Overlay District Study Plan Requirements

1. **Study Plan Required.** Any application to apply the IS Overlay District shall include a Study Plan that meets the requirements of Chapter 20.53 of the Zoning Code and establishes development regulations for the subject property. The Study Plan shall, at a minimum, include proposed land uses and development regulations including but not limited to: permitted uses, setbacks, parking space requirements and floor area ratio. Residential density and floor area shall be as provided in the General Plan, and other Property Development Regulations in the Zoning Code may be changed. The following chapters of the Zoning Code shall apply to all IS Overlay Districts, and may not be modified: Chapter 20.62 Nonconforming Structures and Uses, Chapter 20.65 Height Limits and Chapter 20.67 Signs.

2. Development Agreement Required. At its discretion, the City Council may require that a development agreement accompany any Zoning Code amendment to apply the IS Overlay District.

C. Required Findings

The approval of a Study Plan for the purpose of implementing the General Plan shall require that the City Council make the following findings:

1. The proposed plan implements and is in compliance with all applicable policies of the General Plan.
2. The proposed plan conforms to all applicable design guidelines, such as those included in the Mariner's Mile Design Framework, and any existing Specific Plan design guidelines.
3. Any changes from existing zoning regulations that otherwise would apply are justified by compensating benefits of the proposed plan.
4. The proposed development and/or use and its development and operation as proposed in the Study Plan will not be detrimental to the public health, safety and welfare of the persons residing in or working in the proposed structures or in developments adjacent to the proposed project, properties or improvements in the vicinity or to the general welfare of the City.

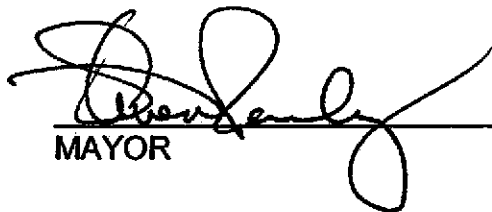
D. Application Procedures

1. Code Amendment Initiation and Review. Requests for code amendments to apply the Interim Study Overlay District and review of all requests shall be done in compliance with Chapter 20.94 of the Zoning Code.
2. Notice Requirements. Public Notice for an IS Overlay Code Amendment and Study Plan shall be done in accordance with Chapter 20.94 of the Zoning Code.
3. Application Requirements. Each application shall be accompanied by all materials necessary to demonstrate that the proposed project implements and is in compliance with all applicable policies of the General Plan. The Study Plan must include a detailed written description of and justification for the proposed project. The justification must clearly identify how the project implements and is in compliance with all applicable policies of the General Plan and specifically how it meets the required findings required for Study Plan approval. Additionally, detailed plans depicting all aspects of the project (e.g. site plan, floor plans, elevations, landscape plans, architectural renderings, color and material boards, etc.). The Planning Director may require additional information deemed necessary at his/her discretion.

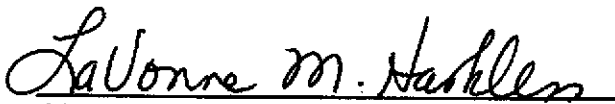
E. Approved Study Plans

1. Study Plan Approval. The approved plan, including the site plan, floor plans, elevations, renderings, and other materials shall be a binding commitment of the specific elements approved for development. The City Council's approval may require the incorporation of provisions into the Study Plan as the City Council deems necessary to assure development and operation of any structures and/or uses is consistent with the General Plan, in accordance with applicable local, state and federal law and in a manner that will not be detrimental to the public health, safety and welfare of the persons residing in or working in the proposed structures or in developments adjacent to the proposed project, properties or improvements in the vicinity or to the general welfare of the city. At its discretion, the City Council may require guarantees and evidence that such requirements are being or will be complied with. Any substantial changes to the plan, as determined by the Planning Director, shall require an amendment to the Study Plan and approval by the City Council.

APPROVED AND ADOPTED this 9th day of January, 2007, by the City Council of the City of Newport Beach, California.


MAYOR

ATTEST:


CITY CLERK



STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

I, LaVonne M. Harkless, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2007-3 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 9th day of January 2007, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Henn, Curry, Selich, Webb, Daigle, Gardner, Mayor Rosansky

Noes: None

Absent: None

Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 10th day of January 2007.

LaVonne M. Harkless

City Clerk
Newport Beach, California

(Seal)

